

12-01-08

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----

PUBLIC UTILITIES COMMISSION

Instituting a Proceeding to Investigate
Implementing a Decoupling Mechanism for
Hawaiian Electric Company, Inc., Hawaii
Electric Light Company, Inc. and Maui
Electric Company, Limited.

Docket No. 2008-0274

PUBLIC UTILITIES
COMMISSION

2008 DEC -1 A 9:08

FILED

HAWAII RENEWABLE ENERGY ALLIANCE MOTION FOR LEAVE TO REPLY TO
HAWAIIAN ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY, INC., AND
MAUI ELECTRIC COMPANY, LIMITED'S MEMORANDUM IN OPPOSITION TO MOTION TO
INTERVENE OF HAWAII RENEWABLE ENERGY ALLIANCE

AND

HAWAIIA RENEWABLE ENERGY ALLIANCE REPLY TO
TO HAWAIIAN ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY, INC.,
AND MAUI ELECTRIC COMPANY, LIMITED'S MEMORANDUM IN OPPOSITION TO MOTION
TO INTERVENE OF HAWAII RENEWABLE ENERGY ALLIANCE

AND

CERTIFICATE OF SERVICE

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Hawaiian Electric Company, Inc., Hawaii)	
Electric Light Company, Inc. and Maui)	
Electric Company, Limited.)	
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MOTION FOR LEAVE TO REPLY TO
HAWAIIAN ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY,
INC., AND MAUI ELECTRIC COMPANY, LIMITED'S MEMORANDUM IN
OPPOSITION TO MOTION TO INTERVENE OF HAWAII RENEWABLE ENERGY
ALLIANCE

Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited ("the Companies") filed the memorandum ("Memorandum"), dated November 21, 2008 and cited in the title above, opposing the intervention of the Hawaii Renewable Energy Alliance ("HREA") in the instant docket. HREA moved for and still seeks full party status as an intervenor in this proceeding. HREA believe the Companies' arguments in the Memorandum are based on an inaccurate interpretation of the arguments presented by HREA in its Motion to Intervene, dated November 13, 2008 in the instant docket. HREA moves for leave to reply to the Memorandum ("Reply").


HREA's Reply would address: (1) the Companies' recommendation that the Commission not approve HREA's motion to intervene in the instant docket, and (2) inaccurate interpretations of fact in the Memorandum.

HREA's Reply is attached and is incorporated here in this motion by reference for the purpose and to the extent that the Reply makes clear what is requested in this motion. The Reply is also provided now so as not to delay the proceeding should leave to reply be allowed.

Based on the foregoing, HREA respectfully requests that the Commission grant this motion for leave to reply to the Memorandum.

Dated: December 1, 2008

Signed:


Warren S. Bollmeier II, President
Hawaii Renewable Energy Alliance

REPLY TO
HAWAIIAN ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY, INC., AND
MAUI ELECTRIC COMPANY, LIMITED'S MEMORANDUM IN OPPOSITION TO MOTION TO
INTERVENE OF HAWAII RENEWABLE ENERGY ALLIANCE

Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited ("the Companies") filed the memorandum, dated November 21, 2008 and cited in the title above ("Memorandum") opposing intervention of the Hawaii Renewable Energy Alliance ("HREA") in the instant docket. HREA moved for and still seeks full party status in this proceeding.

HREA provides its reply to the following arguments offered by the Companies in its Memorandum opposing intervention of HREA in the instant docket.

(1) Argument #1: "HREA's contentions regarding its purported 'interest' are conclusory, and do not demonstrate an interest sufficient to warrant intervention in this proceeding, the purpose of which is to investigate the use of revenue decoupling as a ratemaking mechanism for the HECO Companies,"

HREA Reply: On page 3 of the Companies' Memorandum, the Companies argue that HREA has not adequately stated "specific facts or reasons in support of its intervention." This argument appears to be based primarily on the Companies interpretation of the following statement included in Argument 2 (page 3 of our Motion to Intervene, dated November 13, 2008, and re-stated by the Companies on page 5 of their Memorandum):

"Movant's member organizations and individuals are companies, consultants or agents involved in and/or considering manufacturing, marketing, selling, installing and maintaining renewables in Hawaii, and are concerned about access to the electricity market, including appropriate and reasonable terms and conditions in power purchase agreements." (emphasis added)

HREA would like to clarify our argument above. First, while we believe that an objective of revenue decoupling is to design and implement an alternative ratemaking mechanism

(e.g., decouple profits from sales), we also need to look closely at the overall impacts, including potential "unintended consequences" to the market. We see potential impacts on both sides of the "meter" as follows.

On the "customer-side" (or "retail"), HREA notes that decoupling has traditionally been associated with incentives regarding the effects of demand-side measures ("DSM") measures on the utilities, which generally reduce sales. HREA believes one result of decoupling will be a modified rate structure that not only affects ultimately customer bills, but also the value of DSM measures. HREA would like to emphasize that it is customers that make investments and install customer-sited, off-set renewable technologies and customer-sited, renewable distributed generators ("DGs"), that provide the same result, i.e., a reduction of customer load, as traditional energy efficiency measures. Thus, HREA argues that DSM measures include traditional energy efficiency technologies (such as energy efficient appliances and compact fluorescent lights), renewable off-set technologies (such as solar water heating, solar air conditioning and seawater air conditioning), and customer-sited renewable distributed generators ("DGs"), such as photovoltaic ("PV") and wind energy systems. Energy service providers ("ESPs") of all the DSM measures noted above have a significant financial interest in DSM values and other factors associated with their implementation, including interconnection and net metering agreements with the Companies, and power purchase agreements with end-users. Given that several HREA members are DSM ESPs, we are concerned about the actual impacts of the ultimately-selected and approved decoupling mechanism.

On the "utility-side" (or "wholesale"), several HREA members are independent power producers ("IPPs") and they are concerned about the role that the Companies will play in a new "decoupled electricity market." Specifically, said HREA members are charged with the mission of bringing private capital for renewable resources to the islands that must have an

environment that is attractive¹. On the one hand, utility incentives via revenue coupling can help make for a more open, competitive market. On the other hand, we would like to note that the opening of the instant docket itself creates uncertainty in the market place. That said, it is our hope that the outcome of the instant docket will indeed lead to a more open, competitive market in the most expeditious manner.

Thus, HREA has a significant interest in the instant docket that relates directly to the ability of its members to compete in Hawaii's electricity sector.

(2) Argument #2: "HREA's stated concerns about 'access to the electricity market" are not reasonably pertinent to revenue decoupling," and

HREA Reply: See our reply to Argument #1 above.

(3) Argument #3: "HREA has not demonstrated that it possesses any expertise, knowledge or experience that could assist in the development of a sound record regarding revenue decoupling."

HREA Reply: HREA is confused that the Companies would assert that HREA does not possess "any expertise, knowledge or experience that could assist in the development of a sound record regarding revenue decoupling." Specifically, HREA was an intervenor in the DSM docket (No.05-0069) in which decoupling was discussed. Referencing pages 52 to 55, Section III.C.4 of the Commission's Decision & Order No. 23258, dated, February 7, 2007:

1. One of the parties, Rocky Mountain Institute, built a case for decoupling utility profits from sales,
2. One of the parties, the U. S. Department of Defense ("DOD"), opposed decoupling for two primary reasons. Paraphrasing, DOD had concerns about whether decoupling would result in utility implementation of DSM, and also stated

¹ Note: the concern about the availability of investor financing is also shared by HREA ESPs seeking to finance certain customer-sited projects.

that previous attempts to decouple in other jurisdictions were "limited and unfavorable,"

3. The Consumer Advocate and HREA² opposed decoupling, and
4. HECO and Consumer Advocate recommended that the Commission delay the consideration of decoupling, and the Commission so ordered.

Since then, it appears there has been progress in the implementation of decoupling mechanisms, such as in California, which merit consideration. In addition, the agreement ("Agreement") signed among the state of Hawaii, the Consumer Advocate ("CA") and the Companies³ presents a strong signal to the rest of the energy community that decoupling is an important issue. HREA agrees and wholeheartedly supports the instant docket.

Moreover, given that the CA is party to the Agreement, we are not sure how to view their role in the instant docket. That said, HREA is not taking a position at the present time, as to whether the CA can or will be a neutral and efficacious party. However, as one of many parties not a party to the Agreement, we emphasize that our motion to intervene is absolutely grounded in the need to protect our interests, as discussed above.

Finally, per the Commission's order for the Companies and the CA to prepare a decoupling mechanism proposal, HREA observes that the Companies and the CA will likely

² In our Reply Brief, filed on November 15, 2006, HREA stated the following about decoupling:

"That leaves us with the question of what other alternatives are there, other than transitioning to a TPA? Perhaps the inherent conflict could be removed by application of some form of a decoupling mechanism? However, notwithstanding RMI's arguments in favor, HREA sees this approach as problematic and agrees with the DOD's recommendation to: "Reject proposals to decouple revenues and earnings from sales volumes. The track record for these programs has been just short of disastrous, and nothing offered in this proceeding indicates that there would be more good than harm for a decoupling approach."²

²DOD Opening Brief, pg. 11.

Also note: TPA is Third Party Administrator, which subsequently has become the Public Benefits Fund Administrator.

³ "Energy Agreement Among the State of Hawaii, the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, and Hawaiian Electric Companies," signed October 20, 2008.

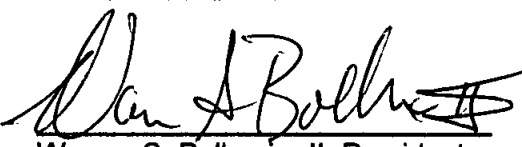
require and hire consultant assistance. Likewise, if accepted as a party to the instant docket, HREA may hire a consultant to assist us in the review of the HECO-CA decoupling mechanism proposal. We may also prepare and submit an alternative decoupling proposal for review by the other parties in the instant docket.

We sincerely believe that it is of the utmost importance that the decoupling mechanism be properly designed and implemented. We are at an extremely important transition to a preferred energy future, and cannot afford to make any big mistakes.

Thus, we respectfully submit that we can contribute to creation of a sound record in the instant docket. Historically, our position has always been that the CA is not in a position to intervene on our behalf. HREA is one collection of private companies in renewable energy and, in at least one respect, we are like the Companies, in that we both have our endemic sets of issues and concerns. Clearly, the CA is not in a position to represent the interests of either HREA or the Companies.

Based on the foregoing, HREA respectfully requests the Commission to admit HREA as a party to this docket.

Dated: December 1, 2008

Signed: 
Warren S. Bollmeier II, President
Hawaii Renewable Energy Alliance

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Motion for Leave to Reply to the Companies Memorandum in Opposition to the Motion to Intervene of HREA and HREA's Reply to the Companies Memorandum in Opposition to the Motion to Intervene of HREA upon the following parties by causing a copy hereof to be mailed, postage prepaid and properly addressed to each such party:

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Date: December 1, 2008



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